

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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DAVID ROBINSON,

Plaintiff,

- against -

CITY OF NEW YORK, et al.,

Defendants.

ORDER

CV 2016-0546 (ERK)(MDG)

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Plaintiff has moved for leave to proceed in forma pauperis  
under 28 U.S.C. § 1915. Section 1915(a) of Title 28 provides that:

Any court of the United States may authorize  
the commencement, prosecution or defense of  
any suit, action or proceeding, civil or  
criminal, or appeal therein, without  
prepayment of fees and costs or security  
therefor, by a person who makes an affidavit  
that he is unable to pay such costs or give  
security therefor.

Because plaintiff has established by affidavit that he is currently  
unable to pay such costs or to give security therefor, his  
application is granted.

However, plaintiff may recover funds later in this action  
sufficient to enable him to repay the filing fee. If he is a  
prevailing party after trial, he is entitled to recover costs  
pursuant to Fed. R. Civ. P. 54(d)(1) and is authorized to recover  
filing fees under Local Civil Rule 54.1(c)(10). Thus, should  
plaintiff recover monies in this litigation, whether after trial or  
other disposition on the merits, or in settlement, plaintiff must  
reimburse the Court for the fees and costs that are waived by this  
order. See Fodelmes v. Schepplerly, 944 F. Supp. 285, 286

(S.D.N.Y. 1996); cf. Flint v. Haynes, 651 F.2d 970 (4th Cir. 1981) (finding that use of the word "prepayment" in section 1915(a) "indicates that Congress did not intend to waive forever the payment of costs, but rather it intended to allow qualified litigants to proceed without having to advance the fees and costs associated with litigation.").

In addition, 28 U.S.C. § 1915(d) and F.R.C.P. 4(c)(3) require that when a plaintiff is authorized to proceed in forma pauperis, the court shall order a U.S. Marshal or someone specially appointed to effect service. Plaintiff's counsel is hereby appointed to serve process on the defendants by mail. This Court notes that the Marshals ordinarily serve process by mail, see Manson v. Simply Food LIC LLC, 2010 WL 376644 at \*2 (E.D.N.Y. Jan. 26, 2010) (discussing the Marshal's service by mail).

**SO ORDERED.**

Dated: Brooklyn, New York  
February 8, 2016

\_\_\_\_\_/s/\_\_\_\_\_  
MARILYN D. GO  
UNITED STATES MAGISTRATE JUDGE